Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
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Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
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To: The Commission

PETITION FOR RECONSIDERATION

Centennial Communications Corp. ("Centennial"), on behalf of its operating subsidiaries,[1] respectfully requests reconsideration of the Commission's *Report and Order Regarding the Minimum Requirements for a Telecommunications Carrier to be Designated as an "Eligible Telecommunications Carrier* (the "*ETC Order*")[2]" with respect to the creation of a five-year plan showing how an eligible telecommunications carrier proposes to spend universal service funds ("USF"), the outage reporting requirement, and the annual reporting requirement.

[1] Centennial Randolph Cellular LLC, Centennial Tri-State Operating Partnership, Elkhart Metronet, Inc., Mega Comm LLC, Michiana Metronet, Inc., South Bend Metronet, Inc., Centennial Beauregard Cellular LLC, Centennial Caldwell Cellular Corp., Centennial Hammond Cellular LLC, Centennial Lafayette Communications LLC, Centennial Morehouse Cellular LLC, Centennial Michigan RSA 6 Cellular Corp., Centennial Michigan RSA 7 Cellular Corp., Centennial Claiborne Cellular Corp., Centennial Puerto Rico Operations Corp., and Centennial USVI Operations Corp.
[2] FCC No. 05-46 (rel. March 17, 2005); 70 F.R. 29960 (May 25, 2005).

Centennial is a rural wireless provider within the mainland United States; in Puerto Rico, the company is a PCS provider as well as a facilities-based competitor to the incumbent telephone company. In its mainland markets, Centennial competes against the largest wireless carriers in the country, and has achieved success in this environment by relentlessly focusing on the needs of its rural customers.

Centennial was among the very first companies to be designated an ETC,[3] and with support from the universal service fund it continues to offer modern wireless communications to rural areas of Louisiana, Mississippi, Indiana, and Michigan. Indeed, in Louisiana, Centennial recently began providing service to a part of that state that had *never had any telephone service whatsoever*[4] and remains the only source of telecommunications service in the area. Centennial is keenly aware of the important role USF plays in ensuring affordable and modern telephone service to all Americans. Moreover, Centennial fully accepts its responsibility to deploy the USF support it receives for the improvement of service in the high-cost areas it serves.

In that regard, Centennial generally supports the Commission's efforts to ensure that prospective eligible telecommunications carriers will satisfy the obligations of section 214(e)[5] and that universal service support is used for its intended purposes. Equally important to Centennial, however, is the

[3] Centennial Puerto Rico Operations Corp. was designated an ETC in December 1997.
[4] *See*, http://www.ir.centennialwireless.com/phoenix.zhtml?c=72717&p=irol-newsArticle&ID=685065&highlight=
[5] 47 U.S.C. § 214(e)

even-handed application of requirements designed to foster compliance with USF rules. Creating a more demanding set of rules for one group of carriers receiving USF while another group is subject to a lower standard of compliance is a policy that is neither fair nor competitively neutral. More important, the stricter requirements that the Commission has created for FCC-designated ETCs do not provide any greater assurance that the universal service funds will be used for their intended purpose. For the reasons that follow, Centennial urges the Commission to reconsider these requirements.

I. The Five-Year Plan.

The *ETC Order* requires a carrier who files a petition with the FCC seeking designation as an ETC to present a five-year plan showing how it will use the funds to improve its service. There is no requirement that the carrier will have ubiquitous coverage in its licensed area at the end of the five-year planning period, and the Commission has recognized that circumstances and market conditions may well force the carrier to amend its plans within the five-year horizon.

A five-year planning requirement will produce no useful results, contains a competitive bias, and is a burden to small ETCs like Centennial.

There is, first of all, no reliable way to determine how much USF support could be expected over the five-year planning horizon because forecasts of USF support are short term: sixty days prior to the start of each quarter, USAC[6] submits to the Commission a forecast of support for the ensuing quarter.[7] To extrapolate five years' worth of future USF support from these data is unreliable to the point of uselessness.[8] Add to this point the widespread expectation that the Commission itself will, in the next twelve to eighteen months, significantly change the level of USF support,[9] and it becomes obvious that the revenue projection needed to create the five-year plan is unreliable. Centennial can see no utility in an exercise based upon speculation.

For the wireless industry, five years is an eternity. What network planner, for example, foresaw in 2000 that carriers in 2005 would construct networks with picture phones in mind? Or that web browsing, ring downloads, high-speed data connections, video programming, online gaming, email, text messaging, and a host of new applications soon to become available would drive network planning? What products, services and demographic trends should an ETC's network planner predict now "in detail"[10] and "with specificity"[11] in order to fulfill the five-year planning requirement? In Centennial's view, a "specific" and "detailed" five-year plan of network development is an unrealistic requirement. Any such report will be based upon

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[6] Universal Service Administrative Company, the entity the Commission has charged with the administration of USF and related programs. The forecasts may be seen at http://www.universalservice.org/.

[7] This implies, at best, four forecasted months of support.

[8] Regrettably, Centennial has found that its actual payments from USAC virtually never agree with even these near-term forecasts.

[9] *See Public Notice, Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support,* FCC 04J-2 (rel. Aug. 16, 2004).

[10] *ETC Order* at 12.

[11] *Ibid.*

guesswork as to its funding and augury as to the factors driving network development. As such, it is little better than an expression of good intention dressed up in the authority of a spreadsheet.

Moreover, there is no competitive neutrality in this proposal because it will apply only to FCC-designated ETCs and not to the very much larger number of incumbent rural LECs and CETCs already certified by state commissions. According to USAC's latest Annual Report,[12] it distributed $3,487,572,000 in high cost support in 2004. ETCs designated by the FCC are responsible for but a tiny portion of that sum. If a five-year plan is, as the Commission argues, needed to ensure that high-cost support will be used to improve service,[13] it is hard to understand how that goal is achieved when much more than 90% of high cost support continues to be spent without the accountability of a five-year planning requirement.

In short, the five-year planning requirement will simply consume resources among the bare handful of FCC-designated ETCs while producing no discernable benefit to the high cost program. This requirement is, then, competitively biased and unnecessary.

II. Annual Reporting Requirement.

The *ETC Order* also requires an ETC designated by the Commission to file an annual report containing certain items, including progress reports on the ETC's five-year plan, outage information, unfulfilled service requests,

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[12] http://www.universalservice.org/download/pdf/2004AnnualReport.pdf
[13] *ETC Order* at 12.

complaints to regulatory bodies, service quality standards, and others.[14] The Commission should reconsider the imposition of this requirement on FCC-designated ETCs.

In creating this reporting requirement especially for the ETCs it designates, the Commission noted that

> Our rules currently require all ETCs to make an annual certification, on or before, October 1, that universal service support will be used for its intended purposes. As recommended by the Joint Board, we maintain and augment this requirement. Specifically, in order to continue to receive universal servic*e support each year, we require each ETC over which we have jurisdiction, including an ETC designated by the Commission prior to this Report and Order,* to submit annually certain information regarding its network and its use of universal service funds. (Footnotes omitted; emphasis added).[15]

The difficulty here is that the Commission's responsibility under section 254(e) of the Act[16] extends to *all* ETCs, not just those it designates. Furthermore, section 254(e) contains no express delegation to the states permitting them to perform this duty instead of the Commission. Hence, the Commission cannot rely upon the states to discharge its duty under section 254(e). *See United States Telephone Association v. FCC,* No. 00-1012 (D.C. Cir. March 2, 2004) at 12.

Until now, the annual certification has been the means by which the Commission fulfilled its obligation under section 254(e) of the Act. If the FCC has come to believe that satisfying section 254(e)'s mandate also requires an annual report, then all ETCs must file such a report with the Commission if

[14] *ETC Order* at 31–32.
[15] *Id* at 31.
[16] 47 U.S.C. § 254(e).

the Act's requirement is to be met. If, on the other hand, the Commission does not regard the annual report as needed under section 254(e), then its imposition upon FCC-designated ETCs only is competitively biased and unnecessary.

III. Outage Reporting.

As noted above, the *ETC Order* requires an FCC-designated eligible telecommunications carrier to file certain kinds of information annually with the Commission. Among the required reports is a report of any outage lasting at least 30 minutes for any service area in which an ETC is designated or that potentially affects at least ten percent of the end users served in a designated service area.[17]

This requirement is needlessly duplicative of the Commission's new Part 4 rules.[18] In putting these rules in place, the Commission stressed that the benefits of the new outage reporting system would be consistency in reporting outages and a simplified means of making the reports both as to determining when to file and where to file.[19] Creating a separate reporting requirement for FCC-designated ETCs is at odds with the policy underlying the new outage reporting rules because it introduces inconsistency in the outage reporting requirements and complicates the reporting procedure. Moreover, these disadvantages are not outweighed by any likely benefit: the new re-

[17] *Id* at 31.

[18] *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-35, (rel. Aug. 19, 2004). (hereafter "*Outage Order.")*

[19] *Outage Order* at 27 *et seq;* 39 *et seq.*

quirement will apply only to a tiny subset of the universe of ETCs, thereby marginalizing any utility the rule may be thought to have.

IV. CONCLUSION

For the foregoing reasons, Centennial Communications respectfully requests that the Commission reconsider the requirements of its order requiring FCC-designated ETCs to submit a five-year utilization plan, an annual report, and an outage report.

Respectfully submitted,

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